



California Fair Political Practices Commission

December 22, 1989

Janice E. Ploeger
Committee to Elect Tricia Hunter
1299 East Valley Parkway, Suite C
Escondido, CA 92027

RE: Your Request for Advice
Our File No. A-89-673

Dear Ms. Ploeger:

You have requested advice concerning the campaign provisions of the Political Reform Act of 1974.¹

QUESTIONS

- 1) May the Committee to Elect Tricia Hunter (the "Committee"), a committee formed for a special election and special runoff election, receive contributions to pay off debt incurred during the recent special election?
- 2) What is the fiscal year for purposes of calculating contribution limits for the 1990 primary election?
- 3) If certain provisions of Proposition 68 become effective, will the Committee be allowed to receive contributions only for purposes of paying off debt and not to support Tricia Hunter's reelection campaign?
- 4) May funds raised to pay off the Committee's debt be used to pay for Ms. Hunter's 1990 reelection campaign?
- 5) If an individual made a contribution of \$1,000 to the Committee during the special election cycle or special runoff election cycle and the same individual contributes again before the end of 1989, are there any restrictions as to which account the new contribution must be deposited; the Committee's bank account or an account established to support Ms. Hunter's reelection campaign for 1990?

¹ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

CONCLUSIONS

1) The Committee may continue to raise funds to pay off debt incurred during the special election. A separate committee may receive additional contributions into a separate bank account to support Ms. Hunter's reelection campaign. However, now that the special election is over, the contributions received by both committees must be aggregated by contributor through the end of the fiscal year to determine if the contribution limits established by Proposition 73 have been met. In addition, no transfers may be made between the accounts that would make the contributions received from one source exceed the limits in either account. As an example, if the Committee received a contribution of \$1,000 from D. Jones prior to the special election, and the reelection committee also receives \$1,000 from D. Jones, none of D. Jones' contribution to the special or special runoff election may be transferred to the reelection committee.

2) The current fiscal year began July 1, 1989. Any contributions received into the reelection committee bank account between July 1, 1989, and June 30, 1990, may not exceed the limits established by Proposition 73.

3) The Commission only provides advice concerning those provisions of Proposition 68 that are currently in effect. The provision about which your question pertains is not in effect and is in litigation before the State Supreme Court.

4) Funds held or raised by the Committee may be transferred to the reelection committee unless such a transfer would violate the contribution limits. The Committee may not pay for reelection expenses directly.

5) If you receive a new contribution between now and the end of this fiscal year (June 30, 1990) from an individual who contributed \$1,000 to the Committee during the special election or special runoff election cycles, the new contribution may be placed into either the Committee's bank account or the reelection committee's bank account. Please note that the Committee may not transfer any funds received in connection with the special or special runoff election from that same individual to the reelection committee, since this would cause contributions received from this one individual to exceed the limit of \$1,000 per fiscal year.

FACTS

The Committee to Elect Tricia Hunter was formed to support Tricia Hunter in the special election and special runoff election to the 76th Assembly District seat. The Committee incurred debts

during the special election and needs to raise funds to pay off those debts. At the same time, Ms. Hunter wants to begin receiving contributions to support her reelection to the Assembly in 1990.

ANALYSIS

Proposition 73 requires that a candidate establish one bank account for each election into which all monetary contributions are placed and out of which all campaign expenditures are made. (Section 85201.)

Transfers between a candidate's controlled committees were initially prohibited by Section 85304. However, the United States District Court, Eastern District of California, has enjoined the Commission from enforcing this provision of Proposition 73. (Service Employees International Union, AFL-CIO, CLC, et al. v. FPFC, Case No. 89-0433, May 15, 1989.) Therefore, except as noted below with regard to special election accounts, if a candidate wants to use the funds in one of his or her committee's bank accounts to support another one of his or her committees, the candidate may transfer funds from the first committee's bank account to the other. To comply with Section 85201's requirement that all expenditures in connection with a particular election be made from a designated bank account, funds held in a campaign bank account designated for one election should be transferred to the bank account designated for a different election before being used for expenses associated with that election.

Proposition 73 also places limitations on contributions to candidates for elective office based on a fiscal year (July 1 - June 30).² The limits apply in the aggregate to all committees

² The Act limits contributions from a "person" to a candidate to \$1,000 per fiscal year (July 1 - June 30). A "person" includes an individual, business entity, or other organization. Contributions from a "political committee" to a candidate are limited to \$2,500 per fiscal year, and contributions from a political party or a "broad based political committee" to a candidate are limited to \$5,000 per fiscal year. A "political committee" is a group of persons that receives contributions from two or more persons and makes contributions to candidates. (Section 85102(c).) A "broad based political committee" is a committee of persons which has been in existence for more than six months, receives contributions from one hundred or more persons, and acting in concert makes contributions to five or more candidates. (Section 85102(d).) Enclosed is a manual which summarizes these provisions.

controlled by a single candidate. (Sections 85301 - 85303, 85102(a).) However, in the case of a special election held to fill a vacant elective office, the limits are calculated separately from the fiscal year during the "special election cycle" and "special runoff election cycle." (Section 85305.)³

As an example, even if an individual has contributed \$1,000 to a candidate during a given fiscal year, if the candidate is involved in a special election, the candidate may receive another \$1,000 from the same individual into his or her special election bank account during the special election cycle and another \$1,000 during the special runoff election cycle if he or she is a candidate in the special runoff election. (Section 85305.)

Once a special election cycle and, if applicable to the candidate, special runoff election cycle are completed, any contributions received by a candidate must be aggregated on a fiscal year basis, since the time frame in which contribution limits are calculated for special elections ends when the special election or, if necessary, the special runoff election is held. (Section 85304.) Thus, if an individual contributes \$1,000 to the special election campaign after the special election and special runoff elections are completed, no other contributions are permitted to any committee controlled by that candidate. (Section 85301.)

Addressing the issue of transfers between a candidate's special election account and any other accounts for committees controlled by the candidate, the United States District Court, Eastern District of California modified its earlier order to include the following:

Candidates for elective office who have established campaign accounts pursuant to Government Code Section 85201 for the purpose of any primary, general or recall election, may transfer funds between any and all of those accounts and any and all separate campaign accounts established for the purpose of a special election... Such transfers are permissible only under the condition that the candidate or campaign treasurer making the transfer ensures that no person shall make any contribution which would cause the total

³ A special election cycle begins on the day on which the office becomes vacant until the day of the special election. (Section 85305(b)(1).) The special runoff election cycle begins the day after the special election until the day of the special runoff election. (Section 85305(b)(2).)

Janice K. Ploeger
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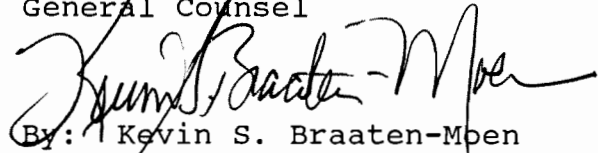
amount contributed by that person to that candidate's
special election committee or committees to exceed the
contribution limits.

(SEIU, AFL-CIO, CLC, et al. v. FPPC,
Case No. 89-0433, November 7, 1989.
Emphasis added.)

If you have additional questions, please contact me at (916)
322-5662.

Sincerely,

Kathryn E. Donovan
General Counsel


By: Kevin S. Braaten-Moen
Political Reform Consultant

Enclosures



1299 East Valley Parkway Suite C (619) 739-9158
Escondido, CA 92027

FPPC
Nov 22 12:41 PM '89

November 15, 1989

Alice Hughes
Fair Political Practices Commission
428 J Street, #800
Sacramento, CA 95814

Dear Alice:

This is to confirm the information we discussed over the phone recently on regulations affecting 1989 fundraising for the Committee to Elect Tricia Hunter.

As I understand it, the following is true:

1. As of today, the committee can continue to raise funds both to pay off the debt from the special election, and to fund the Assemblywoman's re-election campaign (separate committees, bank accounts, etc.). This is due to the regulation allowing legislators to raise funds during the year in which their name appears on the ballot.
2. The fiscal year setting contribution limits for the 1990 primary begins October 4, 1989 (the day after Ms. Hunter's run-off victory) and ends June 30, 1990. This differs from the normal fiscal year of July 1 through June 30, because of our special election.
3. If Proposition 68 goes into affect, the committee can continue to raise funds only to pay off the debt, not for the re-election account.
4. Monies raised for the old committee to pay off debt can only be used to pay off the debt. No funds in the old committee can be used for new expenses because new expenses are regarded as re-election expenses. All new expenses must be paid for out of our new 1990 committee.

In addition to confirming what you and I spoke about, I have another question. If a person or individual maxed out in the general, I know they can give again before the end of 1989 because we are now in our new fiscal year. The question is: If this contributor gives again, is there any restriction into which account the funds must be deposited into (the old 1989 election

committee vs. the new 1990 re-election committee)?

I'd appreciate an answer as soon as possible, as we are in the process of setting up our new committee, and are beginning to receive contributions. We need direction on which account to deposit the funds in before we proceed.

If you have any questions, please call me at (916) 445-8211 or (916) 719-9158.

Sincerely,

A handwritten signature in dark ink, appearing to read "Janice Ploeger". The signature is fluid and cursive, with the first name "Janice" written in a larger, more prominent script than the last name "Ploeger".

Janice E. Ploeger
Political Director



California Fair Political Practices Commission

November 29, 1989

Janice E. Ploeger
Political Director
Committee to Elect
Tricia Hunter
1299 East Valley Parkway, Suite C
Escondido, CA 92027

Re: Letter No. 89-673

Dear Ms. Ploeger:

You have requested confirmation of advice under the Political Reform Act. We have reviewed your request and determined that it is not appropriate for response with a simple confirmation. Therefore, we will be preparing a fuller analysis of the issues raised in your letter to us. After the analysis has been prepared and approved, we will forward it to you as quickly as we can.

If you have any questions, you may contact me at (916) 322-5662.

Sincerely,

A handwritten signature in cursive script that reads "Jeanne Pritchard".

Jeanne Pritchard
Chief, Technical Assistance and
Analysis Division

JP:plh:confadv2